

River City Business Services
5435 Madison Avenue
Sacramento, CA 95841
(916) 348-9100
FAX 348-9111

JUL 18 4 06 PM '97

FEDERAL ELECTION
OFFICE

May 15, 1997

Faxed on 7/18/97

Federal Election Commission
Office of General Council
999 E Street NW
Washington, DC 20463

RE: Request For Ruling

Attention: Mr. Brad Litchfield

I serve as treasurer for Friends of McCarthy, a California non-federal political committee. We are in the process of terminating this committee and would like to make several contributions to federal candidates using the remaining funds of the committee.

We are aware that we will need to register as a federal committee because we want to contribute more than \$1,000.00 in a calendar year. However, we are not sure if the funds remaining in our account are permissible federal funds within the meaning of 11CFR 1025(b).

The balance in our account is approximately \$3,500.00. Over the past few years, we have received refunds from various radio and TV stations for media buys made by the media consultant during a 1990 non-federal election. The refunds are the result of legal action taken against various radio and television stations. These refunds have exceeded the remaining balance in our account today.

In prior years we have received a combination of permissible federal funds and non-permissible federal funds. We believe that the media refunds are a return of funds that were originally contributions received and; therefore, may be permissible funds, subject to our reasonable accounting method for tracking the funds.

Please advise us if our committee can contribute to federal candidate committees with our remaining funds.

Thank you in advance for your help in this matter. Please contact me at the number above if you have any questions

Sincerely


Rita Copeland



FEDERAL ELECTION COMMISSION

Washington, DC 20463

August 13, 1997

**Rita Copeland
River City Business Services
5435 Madison Avenue
Sacramento, CA 95841**

Dear Ms. Copeland:

This refers to your letter faxed to us on July 18, 1997, concerning the application of the Federal Election Campaign Act of 1971, as amended, and Commission regulations to contributions to Federal candidates by a non-Federal campaign committee.

You are the treasurer of Friends of McCarthy ("the McCarthy Committee"), a campaign committee of Leo McCarthy for election to State office in California. The McCarthy Committee is in the process of terminating and wishes to make several contributions to Federal candidates. The Committee's present balance is approximately \$3,500, and the cumulative amount of the proposed contributions will exceed the \$1,000 threshold for registration as a political committee under the Act. You have submitted a copy of the Committee's 1997 Semi Annual Statement to the California Fair Political Practices Commission ("FPPC") disclosing a \$2,000 contribution to Nancy Pelosi for Congress.

You state that, over the past few years, the Committee has received refunds from various radio and TV stations for media buys made by the Committee's media consultant during a 1990 non-Federal election. The refunds were the result of legal action taken against various stations. The refunds exceeded the amount of the Committee's balance.

The Committee's receipts in past years have included some funds that would not be permissible under the Act. You believe that the media refunds are a return of funds that originated from contributions received by the Committee and thus, may or may not be permissible under the Act, depending upon the results of the use of a reasonable accounting method.

You ask whether the Committee may contribute to Federal candidate committees with its remaining funds.

The Act authorizes the Commission to issue an advisory opinion request in response to a "complete written request" from any person with respect to a specific transaction or activity by the requesting person. 2 U.S.C. §437f(a). Commission regulations explain that such a request "shall include a complete description of all facts relevant to the specific transaction or activity with respect to which the request is made." 11 CFR 112.1(c).

In view of the cited requirements, you will need to respond to the following questions and requests for documents:

(1) Please state the years of the Committee's existence and the elections (including year and office sought) for which the committee was used. Clarify whether the original disbursements for the media buys were made by the present committee or a prior committee that transferred funds to the present committee.

(2) State whether the entire \$3,500 in cash on hand is derived from the media refunds received by the Committee. If not so derived or if derived only in part from those refunds, state the sources of the \$3,500. State more precisely when the media refunds were received.

(3) Describe in more detail the accounting method that the Committee will use to determine whether there are sufficient permissible funds for contributions to Federal candidates. Your description should include, but not be limited to, how you will determine which contributions were used to make the disbursements for media buys, and how receipts more recent than the refunds would be excluded from determining the contents of the Committee's cash on hand.

(4) State whether the Committee will contribute any funds to Leo McCarthy's Federal political committees. In addition, please state the date of the Committee's contribution to the Pelosi committee and clarify whether that contribution was made out of the \$3,500 balance or after your letter was first composed.

(5) Please provide complete hard copies of the Committee's 1997 Semi Annual Statement to the FPPC and any reports filed with the FPPC covering the six-month period prior to that, i.e., July 1-December 31, 1996.

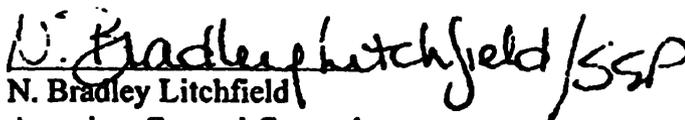
For your information and guidance, we enclose a copy of 11 CFR 104.12, which describes the applicable accounting method for an entity that becomes a political committee (as distinguished from 11 CFR 102.5(b) which applies to entities that do not qualify as political committees). We also enclose a copy of 11 CFR 110.3(d), which prohibits a candidate's nonfederal campaign committee from making transfers to his

Federal authorized committee. In addition, we enclose Advisory Opinions 1996-33 and 1990-16.

Upon receiving your responses to the above questions and the requests for documents, this office and the Commission will give further consideration to your inquiry as an advisory opinion request. If you have any questions concerning the advisory opinion process, the enclosed materials or this letter, please contact the undersigned or Jonathan Levin, a senior attorney in this office, at 202-219-3690.

Sincerely,

Lawrence M. Noble
General Counsel

By:  /SSP
N. Bradley Litchfield
Associate General Counsel

Enclosures

11 CFR 104.12 and 110.3(d)
Advisory Opinions 1996-33 and 1990-16

River City Business Services
5435 Madison Avenue
Sacramento, CA 95841
(916) 348-9100
FAX 348-9111

AUG 20 7 52 AM '97

AOR 1997-20

August 18, 1997

Mr. N. Bradley Litchfield
Federal Election Commission
Office of General Council
999 E Street NW
Washington, DC 20463

Dear: Mr. Litchfield

Thank you for responding to my letter dated May 15, 1997 and faxed to you on July 18, 1997.

Following you will find the information requested in your letter:

(1) Friends of McCarthy qualified as a (CA State) committee on 5/11/89 and is still in existence. The committee is the controlled committee of Leo T. McCarthy used for his re-election to California's Lt. Governor for the 1990 election. The original disbursements for the media buys in question were made by this committee.

(2) The entire \$3,500.00 in cash on hand is derived from the "Media Refunds" received by the Committee. See following a schedule of "Media Refunds", as you can see they total \$6,841.01 and were all received after October 1994. There have been no other cash receipts other than the above "Media Refunds" since October 1, 1994 and, therefore we believe that all current cash on hand is made up of "Media Refunds".

Media Refunds

Date	Amount
1/ 9/95	\$1,373.68
2/28/95	1,264.32
8/25/95	1,752.68
5/ 1/97	<u>2,450.33</u>
Total Refunds	\$6,841.01

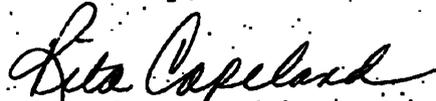
(3) The method we would like to use to determine how much of the media refunds are permissible is as follows. Accumulate all cash receipts and disbursements by the committee from inception using two categories. One for permissible funds and one for prohibited federal funds. We would track chronologically by these two categories to arrive at the amount of funds available by category at the time of each media buy. By demonstrating that there were sufficient permissible funds available when making the media buy to offset the refund amounts we would demonstrate that the amounts refunded were permissible funds. As stated in #2 before, there were no other funds received after the media refunds.

(4) No funds will be contributed to Leo McCarthy's Federal political committees. The date of the contribution to Nancy Pelosi's Committee was June 3, 1997, and was a part of the \$3,500.00.

(5) Enclosed you will find the requested reports filed with FPPC.

Thank you in advance for your consideration in this matter and we look forward to hearing from you soon.

Sincerely,


Rita Copeland

Enclosures

Campaign Disclosure Statement Summary Page

SUMMARY PAGE

NAME OF OFFICEHOLDER OR CANDIDATE AND CONTROLLED COMMITTEE:

Leo T. McCarthy, Friends of McCarthy

Statement covers period from <u>07/01/96</u> through <u>12/31/96</u>	CANDIDATE FOR ELECTION 490
Page <u>2</u> of <u>3</u>	I.D. NUMBER 890476

Contributions Received

	Column A TOTAL THIS PERIOD (FROM ATTACHED SCHEDULES)	Column B* TOTAL PREVIOUS PERIOD (SEE NOTE BELOW)	Column C TOTAL TO DATE (ADD COLUMNS A + B)
1. Monetary Contributions	Schedule A, Line 3 \$ 0.00	0.00	0.00
2. Loans Received	Schedule B, Line 7 0.00	0.00	0.00
3. SUBTOTAL CASH CONTRIBUTIONS	Add Lines 1 + 2 \$ 0.00	0.00	0.00
4. Non-monetary Contributions	Schedule C, Line 3 0.00	0.00	0.00
5. SUBTOTAL CONTRIBUTIONS (Excluding Enforceable Promises)	Add Lines 3 + 4 \$ 0.00	0.00	0.00
6. Enforceable Promises (Exclude Loan Guarantees, Line 18 below) Schedule D, Line 7	0.00	0.00	0.00
7. TOTAL CONTRIBUTIONS RECEIVED	Add Lines 5 + 6 \$ 0.00	0.00	0.00

Expenditures Made

8. Cash Payments (Other than Loans Made)	Schedule E, Line 5 \$ 297.10	299.86	596.96
9. Loans Made	Schedule H, Line 7 0.00	0.00	0.00
10. SUBTOTAL CASH PAYMENTS	Add Lines 8 + 9 \$ 297.10	299.86	596.96
11. Accrued Expenses (Unpaid Bills)	Schedule F, Line 5 0.00	0.00	0.00
12. TOTAL EXPENDITURES MADE	Add Lines 10 + 11 \$ 297.10	299.86	596.96

Current Cash Statement

13. Beginning Cash Balance	Previous Summary Page, Line 17 \$ 1,547.65
14. Cash Receipts	Column A, Line 3 above 0.00
15. Miscellaneous increases to Cash	Schedule I, Line 4 0.00
16. Cash Payments	Column A, Line 10 above 297.10
17. ENDING CASH BALANCE	Add Lines 13 + 14 + 15, then subtract Line 16 \$ 1,250.55

*From previous Statement Summary Page, Column C. However, if this is the first report filed for the calendar year, Column B should be blank except for Loans Received (Line 2), Enforceable Promises (Line 6), Loans Made (Line 9), and Accrued Expenses (Line 11).

LOAN GUARANTEES RECEIVED

18. LOAN GUARANTEES RECEIVED	Schedule B, Part 1, Column (b) \$ 0.00
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Summary for Candidates in Both June and November Elections

19. Cash Equivalents	\$ 0.00	1/1 thru 6/30	7/1 to Date
20. Outstanding Debt	\$ 0.00		
21. Contributions Received	\$ 0.00		
22. Expenditures Made	\$ 0.00		

Schedule E Payments and Contributions (Other Than Loans) Made

SCHEDULE E

NAME OF OFFICEHOLDER OR CANDIDATE AND CONTROLLED COMMITTEE:

Leo T. McCarthy, Friends of McCarthy

Statement covers period
from 07/01/96
through 12/31/96

CALIFORNIA
FORM 490

Page 3 of 3

I.D. NUMBER
890476

CODES FOR CLASSIFYING EXPENDITURES

- *C .. MONETARY AND IN-KIND (NON-MONETARY) CONTRIBUTIONS TO OTHER CANDIDATES
- *I .. INDEPENDENT EXPENDITURES
- *L .. LITERATURE
- *B .. BROADCAST ADVERTISING
- *M .. NEWSPAPER AND PERIODICAL ADVERTISING
- *O .. OUTSIDE ADVERTISING
- *S .. SURVEYS, SIGNATURE GATHERING, DOOR-TO-DOOR SOLICITATIONS
- *F .. FUNDRAISING EVENTS
- *G .. GENERAL OPERATIONS AND OVERHEAD
- *T .. TRAVEL, ACCOMMODATIONS AND MEALS (MUST BE DECIDED)
- *P .. PROFESSIONAL MANAGEMENT AND CONSULTING SERVICES

NAME AND ADDRESS OF PAYEE, CREDITOR, OR RECIPIENT OF CONTRIBUTION
(IF COMMITTEE, IN ADDITION TO COMMITTEE'S NAME AND ADDRESS, ENTER I.D. NUMBER OR, IF NO I.D. NUMBER HAS BEEN ASSIGNED, ENTER TREASURER'S NAME & ADDRESS)

River City Business Services
7649 Sunrise Blvd., Suite E
Citrus Heights, CA 95610

CODE	OR	DESCRIPTION OF PAYMENT	AMOUNT PAID
G		257.51	257.51
SUBTOTAL			257.51

Payments and Contributions Made Summary

1. Payments made this period of \$100 or more. (Include all Schedule E subtotals) \$ 257.51
2. Payments made this period of under \$100. (Do not itemize.) \$ 39.59
3. Total interest paid this period on outstanding loans. (Enter amount from Schedule B, Part II, Column(5)) \$ 0.00
4. Total accrued expenses paid this period. (Do not itemize. Enter amount from Schedule F, Line 4) \$ 0.00
5. Total payments made this period. (Add Lines 1, 2, 3 and 4. Enter here and on the Summary Page, Column A, Line 8.) **TOTAL** \$ 297.10

Campaign Disclosure Statement Summary Page

SUMMARY PAGE

NAME OF OFFICEHOLDER OR CANDIDATE AND CONTROLLED COMMITTEE:

Leo T. McCarthy, Friends of McCarthy

Statement covers period from <u>01/01/97</u> through <u>06/30/97</u>	CANDIDATE'S BIRTHDATE 490
Page <u>2</u> of <u>4</u>	I.D. NUMBER 890476

Contributions Received

	Column A TOTAL THIS PERIOD (FROM ATTACHED SCHEDULES)	Column B* TOTAL PREVIOUS PERIOD (SEE NOTE BELOW)	Column C TOTAL TO DATE (ADD COLUMNS A + B)
1. Monetary Contributions	Schedule A, Line 3 \$ 0.00	0.00	\$ 0.00
2. Loans Received	Schedule B, Line 7 0.00	0.00	0.00
3. SUBTOTAL CASH CONTRIBUTIONS	Add Lines 1 + 2 \$ 0.00	0.00	\$ 0.00
4. Non-monetary Contributions	Schedule C, Line 3 0.00	0.00	0.00
5. SUBTOTAL CONTRIBUTIONS (Excluding Enforceable Promises)	Add Lines 3 + 4 \$ 0.00	0.00	\$ 0.00
6. Enforceable Promises (Exclude Loan Guarantees, Line 18 below) Schedule D, Line 7	0.00	0.00	0.00
7. TOTAL CONTRIBUTIONS RECEIVED	Add Lines 5 + 6 \$ 0.00	0.00	\$ 0.00

Expenditures Made

8. Cash Payments (Other than Loans Made)	Schedule E, Line 6 \$ 2,473.98	0.00	\$ 2,473.98
9. Loans Made	Schedule H, Line 7 0.00	0.00	0.00
10. SUBTOTAL CASH PAYMENTS	Add Lines 8 + 9 \$ 2,473.98	0.00	\$ 2,473.98
11. Accrued Expenses (Unpaid Bills)	Schedule F, Line 5 0.00	0.00	0.00
12. TOTAL EXPENDITURES MADE	Add Lines 10 + 11 \$ 2,473.98	0.00	\$ 2,473.98

Current Cash Statement

13. Beginning Cash Balance	Previous Summary Page, Line 17 \$ 1,250.55
14. Cash Receipts	Column A, Line 3 above 0.00
15. Miscellaneous Increases to Cash	Schedule I, Line 4 2,450.33
16. Cash Payments	Column A, Line 10 above 2,473.98
17. ENDING CASH BALANCE	Add Lines 13 + 14 + 15, then subtract Line 16 \$ 1,226.90

*From previous Statement Summary Page, Column C. However, if this is the first report filed for the calendar year, Column B should be blank except for Loans Received (Line 2), Enforceable Promises (Line 6), Loans Made (Line 9), and Accrued Expenses (Line 11).

Summary for Candidates in Both June and November Elections

18. LOAN GUARANTEES RECEIVED	Schedule B, Part 1, Column (b) \$ 0.00	
Cash Equivalents and Outstanding Debts		
19. Cash Equivalents	\$ 0.00	
20. Outstanding Debt	Add Line 2 + Line 11 in Column C above \$ 0.00	
21. Contributions Received \$	1/1 thru 6/30 0.00	7/1 to Date 0.00
22. Expenditures Made	\$ 0.00	0.00

Schedule E Payments and Contributions (Other Than Loans) Made

SCHEDULE E

Statement covers period from <u>01/01/97</u> through <u>06/30/97</u>	Page <u>3</u> of <u>4</u>
	
I.D. NUMBER <u>890476</u>	

NAME OF OFFICHHOLDER OR CANDIDATE AND CONTROLLED COMMITTEE:
Leo T. McCarthy, Friends of McCarthy

CODES FOR CLASSIFYING EXPENDITURES

- "C" .. MONETARY AND IN-KIND (NON-MONETARY) CONTRIBUTIONS TO OTHER CANDIDATES AND COMMITTEES
- "I" .. INDEPENDENT EXPENDITURES
- "L" .. LITERATURE
- "A" .. BROADCAST ADVERTISING
- "B" .. NEWSPAPER AND PERIODICAL ADVERTISING
- "O" .. OUTSIDE ADVERTISING
- "S" .. SURVEYS, SIGNATURE GATHERING, DOOR-TO-DOOR SOLICITATIONS
- "F" .. FUNDRAISING EVENTS
- "G" .. GENERAL OPERATIONS AND OVERHEAD
- "T" .. TRAVEL, ACCOMMODATIONS AND MEALS (MUST BE DESCRIBED)
- "P" .. PROFESSIONAL MANAGEMENT AND CONSULTING SERVICES

NAME AND ADDRESS OF PAYEE, CREDITOR, OR RECIPIENT OF CONTRIBUTION
(IF COMMITTEE, IN ADDITION TO COMMITTEE'S NAME AND ADDRESS ENTER I.D. NUMBER OR, IF NO I.D. NUMBER HAS BEEN ASSIGNED, ENTER TREASURER'S NAME & ADDRESS)

Nancy Pelosi for Congress
One Bush Street, Suite 1100
San Francisco, CA 94104

CODE	DESCRIPTION OF PAYMENT	AMOUNT PAID
G	2,000.00 Federal campaign contribution	2,000.00
		454.22

SUBTOTAL \$ 2,454.22

Payments and Contributions Made Summary

1. Payments made this period of \$100 or more. (Include all Schedule E subtotals) \$ 2,454.22
2. Payments made this period of under \$100. (Do not itemize.) \$ 19.76
3. Total interest paid this period on outstanding loans. (Enter amount from Schedule B, Part II, Column(d).) \$ 0.00
4. Total accrued expenses paid this period. (Do not itemize. Enter amount from Schedule F, Line 4.) \$ 0.00
5. Total payments made this period. (Add Lines 1, 2, 3 and 4. Enter here and on the Summary Page, Column A, Line 8.) **TOTAL \$ 2,473.98**

Schedule I Miscellaneous Increases to Cash

SCHEDULE I

Statement covers period
from 01/01/97
through 06/30/97

CALIFORNIA
REGISTRATION
490
Page 4 of 4
I.D. NUMBER
890476

NAME OF OFFICEHOLDER OR CANDIDATE AND CONTROLLED COMMITTEE:

Leo T. McCarthy, Friends of McCarthy

DATE RECEIVED	FULL NAME AND ADDRESS OF SOURCE (IF COMMITTEE IN ADDITION TO COMMITTEE'S NAME AND ADDRESS, ENTER I.D. NUMBER OR, IF NO I.D. NUMBER HAS BEEN ASSIGNED, ENTER TREASURER'S NAME & ADDRESS)	DESCRIPTION OF RECEIPT	AMOUNT OF INCREASE TO CASH
05/01/97	Barnea, Browning, Tanksley & Casarella 166 Anderson Street Marietta, GA 30060	Media refund	2,450.33
SUBTOTAL \$			2,450.33

Miscellaneous Increases to Cash Summary

- 1. Increases to cash of \$100 or more this period: \$ 2,450.33
- 2. Increases to cash under \$100 this period: \$ 0.00
(Do not itemize.)
- 3. Total of all interest received this period on loans made to others: \$ 0.00
(Schedule H, Part II (b).)
- 4. Total miscellaneous increases to cash this period: \$ 0.00
(Add Lines 1, 2, and 3. Enter here and on the Summary Page, Line 15.)

TOTAL \$ 2,450.33